

IN THE CIRCUIT COURT OF THE
FOURTH JUDICIAL CIRCUIT OF ILLINOIS
MARION COUNTY

SHANE A. LYBERGER,)
)
)
)
Plaintiff,)
)
vs.) Case No. 20-CH-
)
TROY D. CANNON, in his official capacity)
as Marion County Coroner.)
)
Defendant.)

VERIFIED COMPLAINT

NOW COMES the Plaintiff, SHANE A. LYBERGER, by and through his attorneys, JOHNSON, BUNCE & NOBLE, P.C., complaining of the Defendant, TROY D. CANNON, in his official capacity as Marion County Coroner., and states as follows:

1. Shane A. Lyberger is a citizen of the State of Illinois residing in the Village of Sandoval, Marion County, Illinois.
2. Troy D. Cannon is the Coroner of Marion County of the State of Illinois.
3. The Marion County Coroner is an elected officer of the County of Marion.
4. At all times relevant the Freedom of Information Act, 5 ILCS 14-1 et seq., was in effect and the Marion County Coroner was subject to the requirements of the Act.

COUNT I

5. Plaintiff re-alleges, restates and incorporates paragraphs 1-4 of this Complaint as Paragraph 5 of Count I as if fully set forth herein.
6. On March 30, 2020 Shane A. Lyberger submitted a request pursuant to the Freedom

of Information Act, 5 ILCS 140/1, et seq., to Troy D. Cannon, the Marion County Coroner (Coroner), asking for records that would indicate the financial status of the Coroner's Office as of March 30, 2020.

7. Shane A. Lyberger's March 30, 2020 request was neither granted nor denied but instead, in a series of emails, the Coroner refused to respond until the "COVID-19 crisis" has passed.

8. On April 7, 2020, Shane A. Lyberger submitted to the Attorney General's Public Access Counselor a Request for Review of the illegal response of the Coroner.

9. On July 29, 2020 the Attorney General's Public Access Counselor issued an opinion finding that the Coroner had failed to respond to Mr. Lyberger's request in compliance with the FOIA.

10. In the Attorney General's Public Access Counselors opinion letter of July 29, 2020, the Attorney General's Public Access Counselor pointed out that the Coroner had not responded to repeated emails and letters from the Attorney General Public Access Counselors regarding this matter and further stated that the Coroner had the duty to either provide records or cite an applicable exception for not doing so.

11. No provision of law allows the Coroner to arbitrarily extend the time to respond to an unknown date in the future.

12. As of the date of filing this suit, the Coroner still has not provided the requested information pursuant to Shane A. Lyberger's request of March 30, 2020.

WHEREFORE, Plaintiff, SHANE A. LYBERGER, prays and requests this Honorable Court grant the following relief:

A. Entry of an order directing Marion County Coroner Troy D. Cannon to provide

all documents requested by Plaintiff Shane A. Lyberger in the request of March 30, 2020, pursuant to 5 ILCS 140/11(d);

B. Award reasonable Attorney's fees and costs to Plaintiff Shane A. Lyberger to be paid by Defendant Marion County Coroner Troy D. Cannon pursuant to 5 ILCS 140/11(i), and;

C. Find that Defendant Marion County Coroner Troy D. Cannon willfully and intentionally failed to comply with this act and impose upon Defendant Marion County Coroner Troy D. Cannon a civil penalty of \$5,000.00 to be paid to Plaintiff Shane A. Lyberger pursuant to 5 ILCS 140/11(j).

SHANE A. LYBERGER,
Plaintiff

JOHNSON, BUNCE & NOBLE, P.C.,

By: _____

For the Firm

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VERIFICATION

Under penalties provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and, as to such matters, the undersigned certifies as aforesaid that she verily believes the same to be true.

SHANE A. LYBERGER, Plaintiff